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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

PAPER NUMBER

2617

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/025,934	Applicant(s) VANDERPOHL ET AL.	
	Examiner Michael Van Handel	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims **1, 21, 27, and 37** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 13, and 16 of U.S. Patent No. 6,005,486; claims 1, 20, 26, and 34 of U.S. Patent No. 6,008,736; and claims 1, 8, 15, and 22 of U.S. Patent No. 6,366,328. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 21, 27, and 37 are broader in scope than claims 1, 13, and 16 of U.S. Patent No. 6,005,486; claims 1, 20, 26, and 34 of U.S. Patent No. 6,008,736; and claims 1, 8, 15, and 22 of U.S. Patent No. 6,366,328. Should these claims issue; they would unduly extend the monopoly of U.S. Patent No. 6,005,486; 6,008,736; and 6,366,328.

Art Unit: 2617

3. Applicant is advised that should claim **28** be found allowable, claim **31** will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims **1, 2, 5-7, 10-18, 21-24, 27, 28, 31, 37-40** are rejected under 35 U.S.C. 102(b) as being anticipated by Rumbolt et al.

Referring to claims **1, 21, 27, 37, and 38**, Rumbolt et al. discloses a system for controlling a plurality of hospital TV models (col. 1, l. 52-55)(col. 6, l. 53-59)(Fig. 1), including:

- an input device that generates an input signal when actuated (col. 2, l. 7-9)(col. 5, l. 19-26);
- a controller configured to interface with the plurality of hospital TVs and being operable in a plurality of operating modes (col. 5, l. 1-12, 25-58)(Figs. 3-5);
- the controller responding to the input signal by generating a plurality of individual command signals, each corresponding to a different one of the TV models, to cause

any of the TV models to perform a function (col. 2, l. 9-16)(col. 5, l. 34-37, 44-56)(col. 7, l. 41-45)(Fig. 5); and

- the controlling responding to the input signal, when in another operating mode, by generating a different command signal corresponding to a function of a TV model that does not respond to the command signal group (col. 2, l. 7-16))(col. 6, l. 55-59).

Referring to claim **2**, Rumbolt et al. discloses the system of claim 1, wherein the plurality of individual command signals are generated sequentially in a command signal group (col. 6, l. 27-37).

Referring to claims **5-7**, Rumbolt et al. discloses the system of claim 1, wherein the plurality of individual command signals includes a plurality of CHANNEL UP and CHANNEL DOWN command signals (col. 4, l. 12-15).

Referring to claim **10**, Rumbolt et al. discloses the system of claim 1, wherein the controller includes a processor for processing an input signal to generate a plurality of command signals (col. 2, l. 25-34).

Referring to claims **11, 12, 23, and 39**, Rumbolt et al. discloses the systems of claims 10, 1, 21, and 38, respectively, wherein the controller further includes a relay coupled to the processor, the processor responding to the input signal by opening and closing the relay to generate the plurality of individual command signals (col. 4, l. 44-48)(Fig. 2).

Referring to claims **13, 14, 22, and 40**, Rumbolt et al. discloses the systems of claims 1, 21, and 37, wherein the controller is operable in any one of a plurality of operating modes, and

Art Unit: 2617

wherein the controller includes a mode switch for selecting an operating mode (identify mode, for example) for the controller (col. 5, l. 1-12, 25-58)(Figs. 3-5).

Referring to claim **15**, Rumbolt et al. discloses the system of claim 14, wherein the mode switch is programmable (col. 5, l. 51-58)(col. 6, l. 16-37, 42-52)(col. 7, l. 41-45).

Referring to claims **16** and **24**, Rumbolt et al. discloses the systems of claims 13 and 21, respectively, wherein one of the operating modes includes a selectable submode (category), the controller automatically selecting the submode in response to the input signal (col. 5, l. 56-68).

Referring to claims **17** and **18**, Rumbolt et al. discloses the systems of claims 13 and 1, respectively, wherein one of the operating modes includes a plurality of selectable submodes (col. 3, l. 56-68), the controller generating the plurality of individual command signals when operating in one of the submodes (col. 2, l. 7-16), and, when operating in another submode, generating a different command signal for causing a hospital TV that does not respond to the plurality of individual command signals to perform a function (the examiner notes that Rumbolt et al. discloses selecting a type of appliance along with the selection of an identify key in order to recognize the signal structure of the appliance the user wishes to control. Rumbolt et al. further discloses that the appliance categories can be extended to “first television” and “second television,” each corresponding to different models and/or manufacturers)(col. 6, l. 55-59).

Referring to claims **28** and **31**, Rumbolt et al. discloses the system of claim 27, wherein the controller further generates a data stream as part of the command signal group when the input signal continues for a predetermined period of time following the generation of the command

Art Unit: 2617

signal group, the data stream corresponding to a function of a hospital TV that does not respond to the command signal group (col. 6, l. 27-37).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims **3, 4, 29, 30, 33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al. in view of Nortrup et al.

Referring to claims **3, 4, 29, 30, and 33**, Rumbolt et al. discloses the systems of claims 1 and 27. Rumbolt et al. further discloses that keyboard 36 has keys of a conventional remote (col. 4, l. 12-15). Rumbolt et al. does not disclose ON or OFF command signals, MUTE command signals, switching to a viewing channel in correspondence to a channel digital indicated by an input signal or CHANNEL DIGIT command signals for controlling the viewing channel of TV models. Nortrup et al. discloses a remote keyboard 53, including ON and OFF keys for turning the receiver on and off, a MUTE key for muting an audio response, and numbered keys of the digits 0 through 9 for selecting channels (col. 6, l. 40-63)(Fig. 3). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the keyboard 36 of Rumbolt et al. to include an ON key, OFF key, MUTE key, and numbered keys, such as that

Art Unit: 2617

taught by Nortrup et al. in order to provide a control apparatus for controlling a large number of functions and characteristics of a television receiver (col. 1, l. 36-38).

8. Claims **8, 19, 25, 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al in view of Packard et al.

Referring to claim **8**, Rumbolt et al. discloses the system of claim 1. Rumbolt et al. does not disclose a RADIO command signal for operating a radio associated with a hospital TV, or ON or OFF command signals for turning on or off a television. Packard et al. discloses a control panel 3 that includes command signals for remotely turning a television on and off and for remotely controlling a radio (col. 3, l. 15-19). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Rumbolt et al. to include on, off, or radio command signals, such as that taught by Packard et al. in order to allow a user to control a greater number of functions remotely.

Referring to claims **19, 25, and 35**, Rumbolt et al. discloses the systems of claims 1, 21, and 27, respectively. Rumbolt et al. does not disclose that the keyboard 36 and category selector switch 32 are connected to a hospital bed. Packard et al. teaches that controllers are well known in the healthcare industry to regulate various controls, and that such controllers can be connected to a hospital bed (col. 2, l. 43-50)(Fig. 1). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the keyboard 36 and category selector switch 32 of Rumbolt et al. so that they are attached to a hospital bed, such as that taught by Packard et al. in order to allow a patient to regulate the various control functions associated with modern hospitals (Packard et al. col. 1, l. 8-14).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al.

Referring to claim 9, Rumbolt et al. discloses the system of claim 1. Rumbolt et al. further discloses that keyboard 36 has keys of a conventional remote (col. 4, l. 12-15). Rumbolt et al. does not disclose a plurality of SELECT command signals for selecting a function from a plurality of functions. The examiner takes Official Notice that it is well known within the prior art to include SELECT command signals for selecting a function using a conventional remote control unit. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Rumbolt et al. to include SELECT command signals, such as that taught by the prior art in order to allow a user to control a greater number of functions remotely.

10. Claims 20, 26, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al. in view of Mudra.

Referring to claims 20, 26, and 36, Rumbolt et al. discloses the systems of claims 1, 21, and 27, respectively. Rumbolt et al. does not disclose that the keyboard 36 and category selector switch 32 are connected to a hospital pillow speaker. Mudra discloses a pillow speaker remote control device (col. 2, l. 33-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the keyboard 36 and category selector switch 32 of Rumbolt et al. so that they are attached to a hospital pillow speaker, such as that taught by Mudra in order to provide a greater array of control functions that are accessible in a pillow speaker housing (col. 1, l. 43-45).

Art Unit: 2617

11. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al. in view of Wine.

Referring to claim 32, Rumbolt et al. discloses the system of claim 27. Rumbolt et al. further discloses that keyboard 36 has keys of a conventional remote (col. 4, l. 12-15). Rumbolt et al. does not disclose a PREVIOUS CHANNEL command signal. Wine discloses a PC (previous channel) key 208 that causes a receiver to retune a channel in accordance with the information stored in the previous channel memory (col. 3, l. 55-55-63). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the keyboard 36 of Rumbolt et al. to include a PC key, such as that taught by Wine in order to allow a user to control a greater number of functions remotely.

12. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rumbolt et al. in view of Forler et al.

Referring to claim 34, Rumbolt et al. discloses the system of claim 27. Rumbolt et al. further discloses that keyboard 36 has keys of a conventional remote (col. 4, l. 12-15). Rumbolt et al. does not disclose a CLOSED CAPTIONING command signal. Forler et al. teaches enabling a closed captioning function by activating a switch on a remote control unit (col. 1, l. 335-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the keyboard 36 of Rumbolt et al. to include a closed captioning function, such as that taught by Forler et al. in order to allow a user to control a greater number of functions remotely.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Welles, II discloses a reconfigurable remote control.

Sim discloses a remote controlling method.

Sogame discloses a transmitter driver for a programmable remote control transmitter.

Duckworth et al. discloses a trainable transmitter with an interrupt signal generator.

Keenan discloses a multi-brand universal remote control.

Shim discloses a data transmission method of a remote controller.

Emomoto et al. discloses a wireless remote controller for outputting in serial an operation mode signal for each of a plurality of receiving devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571.272.7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Van Handel
Examiner
Art Unit 2617

MVH



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